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09/917,541	07/27/2001	Katrin Reisinger	GTP/US 3183	9996
24131 7590 12/27/2006 LERNER GREENBERG STEMER LLP P O BOX 2480 HOLLYWOOD, FL 33022-2480			EXAMINER ELISCA, PIERRE E	
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GROUP 3600
BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/917,541
Filing Date: July 27, 2001
Appellant(s): REISINGER, KATRIN

F. Donald Paris

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 28 March 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

a. The brief contains a statement that no related and/or interferences are pending.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Grouping Of Claims

Appellant's brief includes a statement that claims 4, 24 and 26 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192 ©(7) and ©(8).

(8) Claims Appealed

The copy of the appealed claims contained in the appendix to the brief is correct.

(9) Evidence Relied Upon

6,424,954	Leon	7/2002
6,557,104	Vu	4/2003

(10) Grounds of rejection

The following ground (s) of rejection are applicable to the appealed claims:

Claims 1-27 are rejected under 35 U.S.C. 103 (a). The rejection is set forth in a prior Office action, mailed on 11/17/2004.

As per claims 1 and 7-27, Leon discloses a mailing machine including a controller, a security module connected to said controller, and a non-removable program memory operationally connected to said security module and configured to store an initialization program; Col 13-14, lines 1-67. Said security module being programmed to check whether authorization col 15, lines 3-15.

Leon discloses the claimed invention except for a removable authorization device being operationally connected to said mailing machine and configured for being interrogated by said mailing machine. However, Leon does disclose an input element that is coupled to an input circuit for initiating an action col 37, lines 46-67. Vu teaches that it is known in the art to provide a removable authorization device to be operationally connected to said mailing machine and configured for being interrogated by said mailing machine col 4, lines 20-50. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the input element of Leon with a removable authorization device to be operationally connected to said mailing machine and configured to be interrogated by said mailing machine of Vu, in order to provide flexibility in the use of the mailing machine.

As per claim 2, Leon further discloses wherein said authorization device is indirectly connected to said mailing machine via a data source selected from a group consisting of a personal computer, a laptop, and a remote data center col 4-5, lines 1-67.

As per claim 3 Leon further discloses wherein said authorization device is directly connected to said mailing machine col 4-5, lines 1-67.

As per claim 4 Leon further discloses wherein said mailing machine is a franking machine having a meter with a user interface, for a data input of predetermined values, and a postal security device configured to check an authorization of the data input col 4-5, lines 1-67.

As per claim 5 Leon further discloses wherein said franking machine has a base with a first interface for attachment of said data source containing initialization data for said mailing machine, and a second interface for attachment of said authorization device fig 2A.

As per claim 6 Leon discloses the claimed invention except for wherein said authorization device is a dongle. However, Leon does teach about data link interfaces col 37, lines 48-60. Vu teaches that it is known in the art to provide data link interfaces wherein said authorization device is a dongle col 2, lines 62-67.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the data link interfaces of Leon with the said authorization device as a dongle of Vu, in order to provide flexibility in the use of the related equipment.

(11) Response to Argument

The Appellant states that the present invention is a closed system in contrast to an open system as described by the reference Leon. Review of claim 1 does not specify that the invention is a closed system. However, a reference is to be considered not only

for what it expressly states, but also for what it would reasonably have suggested to one of ordinary skill in the art. In re DeLisle, 160 USPQ 806 (CCPA 1969).

Leon discloses the system components as per the prior Office Action except for the removable authorization device. However, Leon does disclose as per col. 37, lines 48-50, that the secure meter device (SMD) can further include an input interface circuit that couples to an input element. The input element can be a switch, a push button, a key, or the like. The Examiner submits that teaching of the use of a external input element provides the motivation bridge to incorporate the use of a dongle and/or a cryptographic key stored on a token as taught by the second reference Vu in the prior 103 Office Action.

The Appellant further states that Leon does not show simultaneous operation of two different security systems as recited in the instant claims. The Examiner submits that the use of the previous input element in conjunction with the system/program as taught by Leon via fig 5A is in fact two different security systems.

The Appellant argues that the secondary reference, Vu, does not teach what the primary reference, Leon, teaches. The Examiner agrees. Vu teaches about the use of cryptographic key/dongle to show it is old and well-known to use an external device in conjunction with another system to enhance the security of a device.

The Appellant's argument that because the prior arts are not in the same international classification deem non-analogous and therefore, not properly combinable ignores the case law that states, A reference is to be considered not only for what it

Art Unit: 3621

expressly states, but for what it would reasonably have suggested to one of ordinary skill in the art. In re DeLisle, 160 USPQ 806 (CCPA 1969).

The Appellant further argues that Leon is initializing a security module, not the mailing machine as recited in the instant claims. The Examiner submits that the mailing machine has a security module/section that must be initialized before it can function. The kind or type of equipment/machine that is initialized does not render an invention original, unique or non-obvious. The method incorporated to initialize a piece of equipment/machine is what is being presented and addressed in the prior Office Action.

As per claim 4 Leon teaches, "... a postal security device configured to check an authorization of the data input" Leon discloses the validation of input data via col 16, lines 30-43. Leon discloses the validation of the data, which provides for the checking that the data is authorized.

As per claims 24 and 26 the Appellant discloses about the data required for the use of an input inkjet cartridge. Leon discloses the systems and methods used to incorporate a printer into the system col. 6, lines 15-67. Since the Applicant has not disclosed that providing data input of extra data solves any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill and it appears that the claimed feature does not distinguish the invention over similar features in the prior art since, the teachings of Leon will perform the invention as claimed by the Applicant with any means, method, or product to sending and providing data that is stored in a nonvolatile memory.

In reference to the Appellant's statement that, "... there is no clear and particular teaching or suggestion in Leon to incorporate the feature of Vu..." the Examiner submits that Leon's discloses the use of an input element that includes a switch, a key, or the like col 37, lines 34-48. Vu teaches about a type of key that could be used.

In response to Applicant's argument that the Examiner conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the Applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA) 1971). Leon discloses and provides the ways and means disclosed by the Appellant and as previously stated, provides the motivation to use secondary methods to increase the security of the overall system.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


Pierre Eddy Elisca

Primary Examiner

Art Unit 3621

12/12/2006

Conferees

James Trammell, SPE 

Andrew Fischer, SPE 

Conferees: